1894-5

191

Previous references.

File No. 17/94-5

Serial Nos. 1 — 8.

Later references. ~~S. R. 56 (97-8)~~

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 8

Major ~~Part~~ B. for December 96

SUBJECT

Foreign liquors imported on the Cooperative System

Sl1. From the Ex Commr Dy. no 18398 L. no 5610
P.S. 259 509
& 27.6.95.
Forwards copy of correspondence between the Deputy Asst Commr Dist. & his office relating to the practice in the K.G.F. of importing "foreign liquors" under Cooperative System.

Sl2 To the Ex Commr no 1557 & 16.8.95
Encl. "if any license was issued in respect of the liquors mentioned in the Merchiston's Staff

G. R. S. 58 From the Ex Commr Dy. no 1337
L. no 716 & 10.8.95 Ex 79
Sl3. States that no license was issued in respect of the liquors mentioned in the Merchiston's Staff

GPB—1,000—1-7-11

Sl 4. To, the Ex Commr Dpo 3163 D/ 14.9.95
Ex 98
Requests his opinion on the question
of legislating in public interest in the co-operative
System, after ascertaining the practice
prevailing in other States

~~Sl 5~~ The Ex. Commr No. 3035 D/17.9.96.
Invites attention to the above requests
reply at an early date.

Sl 5. From the Ex Commr Dy No 2631
L. No 2154 D/ 2.10.96. Ex 160
158
Reports on the practice obtaining
in other States in regard to Foreign
Liquors

Sl 6 To, the Govt Advocate Bangalore
No 4126 D/ 2.11.96
Ex 161
Requests to State his opinion as to
the correct interpretation of the word
"person" in Sections 12(a) & 21(a) of the
Ex Act & to whether it is or is not
meant to include Companies,
~~Sl 7~~ Associations, Clubs or bodies of persons.
Sl 7 From, the Govt Advocate Dy. No 3336
L. No 70. D/ 16.11.96. Ex 204
Submits his opinion as to the
interpretation of the word "person"
of the Ex Act.

(3)

Rev.

~~CHIEF~~ SECRETARY'S OFFICE

REVENUE BRANCH.

S.R. 79 1894-5

OFFICE NOTE.

SUBJECT. Legality of import of "Foreign Liquors" to the Gold Mines Camps on the the Co-operative principal questioned

LAST REFERENCE. Letter No. 5610/509 dated 27th June 1895 from the Excise Court

1 The above case is clearly exempted under sec: 21 clause (a) of the Excise Act.

2- Any one at the Gold Fields can write to Messrs Spencer & Co. Madras, or the Branch firm in Bangalore for instance and obtain a supply of "Foreign Liquors" for his own benefit, or for & on behalf of himself and his friends, for his or their individual, or mutual benefit

benefit "but not for sale"
to the general public.
There is no "sale" in such
cases. Nor does this Law
justify the questions
advocated to be put by
the Ex: Comr: to know if
such liquors paid duty
of Ex: to the British Govt
or whether the value was
paid in advance or not &c &c.

3. There is no doubt that
the so called "Co-operative
system" is open to abuse.
But this would apply to
other systems as well.

4- There is the "Club"
which does the same with-
-out License and it is
notorious that outsiders
do not get their "drinks"
free as it is not likely
that members pay for
such "lifts" to callers
at the club.

5th The only course is to
insist that the "Indent"
for and "Invoice" receive
with consignments
should give the names of
the "members" so that the
Ex: Department may be
able to run in a breach of
the Excise Act, when sold
to other than those for
whom such stocks were
actually obtained.
6- If there were a regula
established "Co-operative
Store"
Shop then I think Gov
would be justified in
compelling a License to
taken out-

Orders are solicit

10/7/95 — J. Gibbons
Sgt Major

Subject to 3d/r

I agree. In the case of a Co-operative body, the purchase is one made for private use by a body of persons instead of by a single person - To prevent abuse, every Co-operative Society may be called upon to furnish the Dy Comr with a list of its members, so as to facilitate the detection & punishment of abuse if any - No license can be revoked

Revoked by Order 7/12/96

Subject to 3d/r

The Govt Advocate has not thrown much light on the interpretation of the word "person." He simply refers us to the defn in the General Clauses Act, which runs thus:- "Person shall include any company, or association, a body of individuals whether incorporated or not." But this defn is subject to the proviso that "there should be nothing repugnant "in the subject or context."

Now the context is, that licenses need not be taken in the case of Spirits "legally procured by any person "for his private use and sold by him "or by auction on his behalf etc.., upon "his quitting a station or after his "decease;" also in the case of Spirit "purchased by any person for "his private use and not for sale." — Ss. 12 & 21 of the Excise Act.

The defn referred to is undoubtedly inapplicable in the case of a Corporation, which can have no "private use" for liquor as such, apart from the individuals composing such corporation, inasmuch as its existence is distinct from theirs.

The case of a co-operative body of persons who club together and purchase liquor in the name of one of their number is different. The latter is the agent for each of the others; and any purchase & sale by him is in essence a purchase and sale by all; the only difference being that, instead of a large number of transactions, we have only one.

If this view is right, clubs and other corporations are not entitled to exemption, while the co-operative body is.

27/11/96.

SR 17-1-96-5 (1)

Gen. 30.

OFFICE OF THE
18398
2 - JUL 1895
R 5259
DEWAN OF MYSORE.

189

From

The Excise Commissioner
in Mysore

To The Revenue

The ~~Chief~~ Secretary to the Govt
~~Dewan~~ of Mysore.

Dated 27th June 1895.

Despatched 1-7

Received .

Enclosure No. (1 file)

General No. 5610

No. 509

~~In reply to~~

Submitted for Orders
See Note drafted
10/7 S. R.

12/9/7

If a No of persons
club together and
buy up a large
quantity for
distribution among
themselves according
to the amount
contributed by
each it is difficult to say
that one of them
is a Vendor while
the others are
purchasers
from him. The
practice prevails
in clubs &
Cooperative Societies
elsewhere & cannot
be ascertained.
Unless a bona
fide & well founded
doubt exists in
the minds of the

SUBJECT.

Forwards for the information of Govt. Copy of correspondence between the Deputy Commissioner Kolar and this office relating to the practice in the Gold fields of importing "foreign Spirits" and "foreign fermented liquors under what is called "Cooperative System"

References (to be entered only in the Dewan's Office.)

Recd 11
7 97

6/7

5/7/97

Excise authorities,
I do not think
they can call
upon a person in
the occupation of
liquor merchant
to prove
that it is such
liquor as not
contain liquor.

Respectfully
yours

2/7/95

Mr. McDonald says that
the Q. Sess. could pass
such [illegible] a license in
the case. This I think was
not right — to call for
a report of D.C. Proceedings
the papers were sent. [illegible]
no idea of the proceedings
both. McDonald says
that acc. to his report a
license was issued as
a matter of fact.

2/8/95

Prohibition Q.
3/8/95

Excise Commissioner's Office

No. 5610/509 Excise Camp Chamrajpet dated 27th June 1905

1-7

From

The Excise Commissioner
in Mysore.

To

The Revenue Secretary to the
Government of Mysore

Sir,

I have the honor to forward, herewith for the information of Government copy of the marginally noted correspondence relating to the practice in the Kolar Gold Fields of importing "Foreign Spirits" and "Foreign fermented

1. Letter No. 5060/3138, dated 23rd/26 instant, from the Deputy Commissioner, Kolar District
2. Extract from the Diary of the Chief Police Inspector Gold Fields
3. Statement of Mr. Oliver Martin Vincent
4. Docket No. 5609, dated 27th instant, to the Deputy Commissioner, Kolar District.

fermented liquors" under what is called "Co-operative System."

I have the honor to be,
Sir,
Your most obedient Servant,

L Ma[illegible]
Excise Commissioner
Govt. in Mysore

Kolar Deputy Commissioners' Office,

No. 5060/3138 Encl: 2. Dated, Camp Jangamkota, 23rd/26 June 1895.

To,

The Excise Commissioner
in Mysore

Sir,

In submitting herewith the marginally noted diary with its enclosures, - to be kindly returned when no longer required, - I have the honor to request that you will be good enough to inform me at an early date whether such wholesale importation of wines &c., as is referred to therein, can be permitted and whether the system spoken of, can be allowed to continue

I have &c
(Sd) C. Madiah
Deputy Commissioner
Kolar District

General Departmental Diary of Inspector of the Kolar Gold Fields, Kolar District

× × × × ×

Oliver Martin referred to in my diary

× General Diary of the Deputy Inspector, Gold Fields, dated 12th June 1895.
Enclosure - Statement of Mr. Oliver Martin Vincent

Deary of Yesterdays date came
to me at the Station this evening
and made a statement that the
consignment of wine &c he expects
from Bombay is being got down
on Co-operation System, i.e. a
number of members subscribe
and get down articles on the
name of one person and on receipt
divide the same and equally pay
for it. I beg to attach a copy
of the statement. From private
enquiries I learn this is true,
the Wines &c brought down
under this System is not sold
to out siders for profit and
hence our interference appears
unnecessary

(Signed) W. Wilkinson
Chief Inspector.

Statement of Mr. Oliver Martin
Vincent, Italian miner, Mysore Camp.

At the end of May last (I think
it

it was on the 29th Ultimo) I re-
-ceived on behalf of members
subscribed a consignment
of Red Wine from Pondicherry
from the Firm of Viscardi Two
barrels were consigned to my
address containing 22 Dozens
quarts in each barrel. This was
got down by Co-operative System
by myself and about 30 other
members who subscribed
towards the payment of the
2 Barrels of Wine. I expect
the following consignment
from Bombay from C. Boggidno
Manager, Italian Commercial
Agency in a few days hence
viz:-

2 Casks Fernet Branca Bitters @ 36/- Rs
(2 Doz's) Per cask —— Rs 72/-
3 — do — Wine Frignolino 12 Doz.
quarts @ Rs 12/- per doz. 144/

The above will on arrival and
delivery

delivery be divided among the above 30 members and paid for. This also is got out on the Co-operative System. By this means we pay less and get good articles. I do not sell the wine for profit to anybody.

(Signed) V. Oliver Martin
12/6/95

From,

The Excise Commissioner
in Mysore

To,

The Deputy Commissioner
Kolar District

Dated 27th June 1895.

No. 5609 (Enc 2) / 1-7 / 182

The Deputy Commissioner's
no: 5060 / 3138, dated 23rd / 26 instant

In reply has the honor to state that the provisions of Sections 12 and 21 of the Excise Act

Act do not apply to the foreign spirit or foreign fermented liquor legally procured by any person for his private use and not for sale. The word "Sale" means any transfer of an article otherwise than by way of gift. If a person legally procures any foreign spirit or foreign fermented liquor, and then distributes it to others from whom he has received money in advance, amounts to "Sale"

2. Foreign Spirits and Foreign fermented liquors, as defined in Rule I(a) in Government Notifications Nos: 31, dated 9th May 1889, and 4, dated 3rd April 1891, are such spirits or fermented liquors as are manufactured in any place in Europe, America or Australia and imported into the Territories of Mysore after due

due payment of duty to the British Indian Government at the port of importation in India. Accordingly, unless any person who imports spirits or fermented liquors for his private use, proves that they are such "Foreign Spirits" or "Foreign fermented liquors", and that duty has been duly paid for them to the British Indian Government at the port of importation in India, they must be dealt with under the provisions of the Excise Act as if they are "Country Spirits" or "Country fermented liquors".

3. The enclosures are herewith returned

(Signed) L. Ricketts
Excise Commissioner
in Mysore

"Copy
L. Ricketts
Excise Commissioner
Mub. in Mysore

(2)

The Excise Commr
in Impse

No 1557/547
Dated 3rd 6th August 95

His No 5610/509 of 1st July/95
forwarding copy of Correspondence
between the Dy Commr & this
office relating to the practice
in the Gold Fields of importing
"Foreign Spirits" and "Foreign
fermented liquors" under what
is called the "Co-operative System"

With reference to the above
has the hnor to enquire what
has been done with the liquor
in question and what action
has been taken by the Dy.
Commr for the disposal thereof
quoting authority therefor.

I.O

Rer Secy

whether any license
is required in
respect of the
liquors mentioned
in the margin
& whether & Do
by whom & on what authority
& the Excise license
was issued -

6/8/95

3/8

(4) 12

Gen. 30.]

REVENUE DEPARTMENT
1895 Dy. No. 133
No. Ex/79
16 AUG 95
DEWAN'S OFFICE

Submitted to Hon'ble
with draft for approval
11/9 S.R.

11 Aug 1895

Sahib & 3 Secretaries
with a draft.
The License Commissioner
reports therein that
no license was granted.
We should now to
direct Commissioner
Mysore & then
pass orders - Q
12-9-95

From The Excise Commissioner in Mysore.

To Secretary No 3 Revenue

The ~~Chief~~ Secretary to the Government ~~Dewan~~ of Mysore.

Dated 10th August 1895.

Despatched 15

Received

Enclosure No.

General No. 716

No. 72

In reply to Docket No 1557/Ex:47, dated 6/8th instant.

SUBJECT.

States that no license was issued in respect of the liquors mentioned in Mr. Martin's Statement

References are put up

~~JRL~~ *References* (to be entered only in the Dewan's Office.)

1878

Rice,
HBh
16/8/95

Revenue
11/8

No. 716/72

Excise Commissioner's Office
Camp, Mysore, 10th August 1895.

From

The Excise Commissioner
in Mysore.

To,

The Revenue Secretary to the
Government of Mysore.

Sir,

In reply to your docket No. 1557/Ex: 47, dated 6/8 11th instant, I have the honour to state that no license was issued in respect of the liquors mentioned in Mr. Martin's Statement.

I have the honor to be.
Sir
your most obedient servant.

L Michetti
Excise Commissioner
in Mysore.

SR VA 1896 (5) 14

To Serial W4
The Excise Commr
in Dupore

Sir,

Adverting to the general question raised in your letters marginally noted as to large stocks of liquor being imported on the co-operative system and distributed on the amounts contributed, I am directed to request you will be good enough to ascertain the practice prevailing in clubs and co-operative societies elsewhere and favour Government with your views thereon with special reference to Sec: 12 clause (a) of the Excise Act

2 It may be here observed that unless a bonâ fide and well-founded doubt exists in the minds of the Excise Authorities, it is doubtful whether any person in

× 5610/509 of 27/6/1/7/95.

716/72 of 10th Aug. 95.

No 3163/Ex.98 of 14.9.95.
"/16

in possession of liquor, purpor-
-ting to be foreign liquor, can be
called upon to prove that it is
such liquor and not country
liquor.

3. I am also to request that
if no Licence was issued in
any Martins case, the records
of those cases in which special
Licenses were granted for the sale
of such imported liquors should
be obtained and sent.

4. The numbers & particulars of cases of imports of liquor on the Co-operative system should also be reported. I have &c.

14/9/55

Revenue Secretary

14/9

Draft for approval 16

To

~~Secretary~~

The Excise Commr in Dyson

S. R. 17/9/96

D/ 17/9/96

Dept 19

No: 3035-
Ex. 113

Serial No: (5) on the file

His office letter No: 3163+
Ex 98
of 14th September 95 requesting
~~the Excise Commr to favour~~
~~him with~~ his opinion on
the question of liquor being
imported on the co-operative
system, after ascertaining
prevailing
the practice in ~~the~~ clubs &c.

Has the honour to draw
attention to the above and
to request an early reply.

~~Yours &c~~

By Order

Secretary

BB
16/9/96

Exise.] 7

Gl. I. 2631
Ex 160
1896

From The Excise Commissioner in Mysore

To The Secy. to the Govt. of Mysore,
Revenue & General Depts

Dated 2nd October 1896
Despatched 6th Do
Received
General No. 2154
No. 158
Enclosure No.

In reply to Docket No. 3035 Ex. 113, dated 17/19th September 1896.

SUBJECT

Reports on the practice obtaining in clubs in regard to Foreign Liquors.

Nov 9-1096

References (to be entered only in the Dewan's Office.)

Excise Rep. (Oct. 1st to ...)

Report
9/11/96

Submitted with Excise Commr's letter no 3163 of 14/10/96 (General 5 ... part (a) & also to Secretary Remarks on paper no (4) ...

15/10/96

The Cr. Commr is of opinion that the exemption only applies to individual persons, not to a body of persons. This seems to be a little too wide. There is every difference between a co-operative body of persons who purchase liquor together & then divide it to save cost and a club which, as a corporation, has a distinct existence from the individuals composing it and in the strictest sense sells liquor to its members (sometimes at a profit). If this distinction is correct, a club is not entitled to exemption.

Submitted
17/10/96.

Please consult the Govt. Advocate

25-10-96

Drafted
BB
Submitted with Govt Advocate's letter No 708/16 two
2/11/96 dated 7th November/96 in which he says that though the word "Person" is not defined in the Excise Act, the omission is supplied in the General Clauses Act I of 1868.
BB
27/11/96

Excise Commissioner's Office
Bangalore 2nd October 1896.
6th

(7)

No. 2154
158

From The Excise Commissioner
in Mysore

To The Secretary to the
Government of Mysore
Revenue and General Department

Sir,

In reply to your docket No. 3035 Ex. 113, dated the 17th/19th September 1896, I have the honor to state that I have ascertained that no Co-operative Societies exist at Bangalore; and the practice in clubs is to obtain foreign liquors from respective firms, payments therefor being made from the general funds of the clubs, and appropriate them for the exclusive use of the members thereof. No license fees are paid by the clubs to Government for liquors, and no liquors are sold to outsiders.

2. As laid down in Sections

12(a)

12(a) and 21(a) of the Excise
act, the law which requires
that licenses should be obtained
for the sale or possession of
liquors, does not apply to "any
foreign spirit or foreign
fermented liquor legally
procured by any person for
his private use and sold by
him or by auction on his
behalf or on behalf of his
representative in interest, upon
his quitting a station or after
his decease." The word "person"
is not defined in the Excise
Act. From the wording of the
above sections, I am inclined
to infer ... that the exemption
therein contained, applies
only to individual persons,
but not to any company or
association or club or body
of persons. I beg to suggest
that the opinion of the Government
advocate

Advocate and Chief Court,
may be obtained on the Govt
and orders of Government
passed for the guidance of
all concerned

I have the honor to be
Sir,
Your most obedient Servant
M Thomas
Excise Commissioner
in Mysore

Draft as per agreement

To (8)

The Government Advocate

Bangalore

No 4126 Ex. 181

Dated 2-11-96.

Serial 206

In forwarding herewith

Copy of letter no 2154/158 dated

2nd October 1896 from the

Excise Commr in Mysore,

has the honor to request that

he will be pleased to ~~~~ as to

~~furnish the Office with~~ state his

opinion as to the correct interpretation of

the word

"person" in sections 12(a)

and 21(a) of the Excise Act

~~to be interpreted~~ & whether it

is meant to include ~~~~

Companies, associations,

clubs or bodies of persons.

"B. O."

for Secretary

27/11/96

2/11/96

REVENUE DEPARTMENT
Gl. No. 3386
Ex. 204
18 NOV. 96
CEWAN'S OFFICE

9

From The Government Armed Forces in Mysore

To The Secretary to the Government of Mysore

Dated 16th November 1896

Despatched

Received

General No. 10
No.

Enclosure No.

Submitting opinion as to the interpretation of the word "person" of the Stamp Act.

Rec'd 17.11.96

Refer to Asst

20/11/96

Submitted for orders.

27/11/96

Government Advocate's Office

No. 70

16th November 1896.

9 23

From

The Government Advocate
in Mysore

To

The Secretary to the
Government of Mysore

Sir,

(8) In reply to your letter No. 4126/St. 161 dated 2nd Instant, I have the honor to state that in my opinion the word person in Sections 12(a) & 21(a) is not defined in the State Act. But it is defined in the General Clause Act of 1868, Section 2 clause (3). According to the definition the word person includes any Company, or Association or body of individuals whether incorporated or not.

I have the honor to be
Sir
Your most obedt Servt.
S Rowland
Government Advocate

GOVERNMENT OF MYSORE
NO 619
DATED 20 : 3 : 1896
LEGISLATIVE DEPARTMENT

24

ACT No. I of 1868.

Enclosure No. 7

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 3rd January* 1868.)

An Act for shortening the language used in Acts of the Governor General of India in Council and for other purposes.

Preamble.

WHEREAS it is expedient to shorten the language used in Acts made by the Governor General of India in Council, and to make certain provisions relating to such Acts and Regulations; It is hereby enacted as follows:—

and extended to Mysore and in the Regulations passed by the Maharaja of Mysore.

Short title.

1. This Act may be cited as "The General Clauses' Act, 1868."

Interpretation-clause.

2. In this Act and in all Acts made by the Governor General of India in Council after this Act shall have come into operation, and extended to Mysore— unless there be something repugnant in the subject or context,—

Gender.

(1.) Words importing the masculine gender shall be taken to include females;

Number.

(2.) Words in the singular shall include the plural, and *vice versâ*;

"Person."

(3.) "Person" shall include any company, or association, or body of individuals whether incorporated or not;

"Year" and "month."

(4.) "Year" and "month" shall respectively mean a year and month reckoned according to the British calendar;

"Immoveable property"

(5.) "Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

(6.) "Moveable

"Moveable property." (6.) "Moveable property" shall mean property of every description, except immoveable property;

"Her Majesty." (7.) "Her Majesty" shall include Her heirs and successors to the Crown;

"British India." (8.) "British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better government of India*), other than the Settlement of Prince of Wales' Island, Singapore and Malacca;

"Government of India." (9.) "Government of India" shall denote the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, as regards the powers which may be lawfully exercised by them or him respectively;

"Local Government." (10.) "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner;

"High Court." (11.) "High Court" shall mean the highest Civil Court of appeal in such part;

"District Judge." (12.) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction; ~~but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction~~;

"Magistrate." (13.) "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure;

"Barrister." (14.) "Barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

"Section." (15.) "Section" shall denote a section of the Act in which the word occurs;

(16.) "Will"

"Will." (16.) "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property;

"Oath," "swear" and "affidavit." (17.) "Oath," "swear" and "affidavit" shall include affirmation, declaration, affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

"Imprisonment." (18.) "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

"Son." "Father." (19.) And in the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father.

3. In all Acts made by the Governor General of India in Council after this Act shall have come into operation:— and extended Mysore

Revival of repealed enactments. (1.) For the purpose of reviving, either wholly or partially, a Statute, Act or Regulation repealed, it shall be necessary expressly to state such purpose;

Commencement of time. (2.) For the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from;"

Termination of time. (3.) For the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to";

Official chiefs and subordinates. (4.) For the purpose of expressing that a law relative to the chief or superior of an office, shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

Successors. (5.) For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and

Substitution of functionaries. (6.) For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the

the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

Duty may be taken *pro rata*.

4. Whenever by any Act or Regulation now in force or hereafter to be in force, any duty of customs or excise or in the nature thereof is leviable on any given quantity, by weight, measure or value, of any goods or merchandize, a like duty shall be leviable according to the same rate on any greater or less quantity.

Recovery of fines.

5. The provisions of sections sixty-three to seventy, both inclusive, of the Indian Penal Code, and of section sixty-one of the Code of Criminal Procedure, shall apply to all fines imposed under the authority of any Act hereafter to be passed, unless such Act shall contain an express provision to the contrary.

Matters done under an enactment before its repeal to be unaffected.

6. The repeal of any Statute, Act or Regulation, shall not affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced before the repealing Act shall have come into operation.

Judicial notice to be taken of Acts.

7. All Courts of Justice, whether exercising civil or any other jurisdiction, and all persons having by law or consent of parties authority to receive evidence, shall take judicial notice of all Acts and Regulations heretofore made, or hereafter to be made, by the Governor General of India in Council, the Governor of Madras in Council, the Governor of Bombay in Council and the Lieutenant Governor of Bengal in Council, or by the like authority in other parts of British India, whether the same be of a public or of a private nature.

Recital to be *primâ facie* evidence of truth of fact recited.

8. Any recital contained in any Act of the Governor General of India in Council heretofore made or hereafter to be made, shall be deemed by all such Courts and persons to be *primâ facie* evidence of the truth of the fact recited.

Office Supdt. Govt. Printing.—No. 94 L. C.—8-1-68.—3,000.

7. In all Regulations passed by His Highness the Maharaja whether before or after the coming of this Regulation into operation,

"Maharaja" shall mean the Sovereign for the time being of the Mysore State and his heirs and Successors to the Sovereignty;

"Chief Court" shall mean the Chief Court constituted under the Mysore Chief Court Regulation, 1884; and

"the Territories of Mysore" shall mean the whole of the Territories subject to the Jurisdiction of His Highness the Maharaja; &c

8. All Regulations passed by His Highness the Maharaja aforesaid shall be construed and enforced in accordance with the provisions of Act I of 1868 so far as they are applicable and not otherwise.

Read the following papers:- (10) 27

1) Letter No. 5610/509 dy 27 June 95 from the Ex: Comr in Mysore submitting an order on the question whether the wholesale importation of foreign spirits and fermented liquors under what is called the "Co-operative system," is permissible under the Excise law.

2) Letter No. 216/72 dy 10 Aug 95 from the same reporting that no license was issued in respect of such liquors.

3) Letter No. 2154/150 dy 28 Octr '96 from the same, reporting the practice existing in clubs, and stating that the exemption contained in sections 12(a) and 21(b) of the Excise Act appears only to apply to individual persons and not to any company a association or club a body of persons.

4) Letter No. 70 dy 16 Novr. 1896 from the Govt Advocate, quoting the definition of "person" in the General Clauses Act.

Order thereon. No. 5-488-89 dy 15.12.96
" Ex. 215

The question before Government is, whether clubs and bodies of individuals purchasing liquor on the co-operative system, are entitled to the exemption from license fees conferred by sections 21 and 12 of the Excise Act in the case of the purchase of liquor by any person for his private use and that of the sale of remnants of such spirits.

Clubs, and other bodies which have a distinct existence apart

from the individuals composing them, as such can clearly have no "private use" for liquor; and are, therefore, not entitled to any exemption.

The case of a co-operative society, that is, of a number of persons who join together and purchase liquor, is essentially different: the purchase being, in this case, one made for private use by a body of persons instead of by a single person, and being really equivalent to different transactions by the different individuals composing the society. No license can therefore be insisted upon in such cases. But, in order to prevent abuse of this exemption, the Government are pleased to direct that every co-operative society be called upon to furnish the Deputy Commissioner with a list of its members, so as to facilitate the detection and punishment of abuse if any.

15-12-96

15/12/96

Secy.

To

The Excise Commr
in Mysore,
11 Government Advocate

1896-97

GOVERNMENT OF MYSORE

EXCISE

PROCEEDINGS

Dated 15*th December* 1896

No. 5488-89
Ex. 215

Observing that Clubs and societies which have a distinct existence, apart from the individuals composing them, can have no "private use" for liquor and are not entitled to exemption from license fees, and directing that co-operative societies, purreign liquor for private use, be m license fees.

M.G.C.P.B.—4-1-97—120

READ THE FOLLOWING PAPERS:—

1. Letter No. 5610—509, dated 27th June 1895, from the Excise Commissioner in Mysore, submitting for orders the question whether the wholesale importation of foreign spirits and fermented liquors under what is called the "co-operative system," is permissible under the Excise Law.

2. Letter No. 716—72, dated 10th August 1895, from the same Officer, reporting that no license was issued in respect of such liquors.

3. Letter No. 2154—158, dated 2nd October 1896, from the same Officer reporting the practice existing in Clubs, and stating that the exemption contained in Sections 12 (*a*) and 21 (*a*) of the Excise Act appears only to apply to individual persons and not to any Company or Association or Club or body of persons.

4. Letter No. 70, dated 16th November 1896, from the Government Advocate, quoting the definition of "person" in the General Clauses Act.

No. 5488-89—EX. 215, DATED, BANGALORE, 15TH DECEMBER 1896.

ORDER THEREON.—The question before Government is whether Clubs and bodies of individuals, purchasing liquor on the co-operative system, are entitled to the exemption from license fees conferred by Sections 21 and 12 of the Excise Act in the case of the purchase of spirit by any person for his private use, and that of the sale of remnants of such spirits. Clubs, corporations and other bodies which have a distinct existence, apart from the individuals composing them, can as such clearly have no "private use" for liquor; and are, therefore, not entitled to any exemption.

2. The case of a co-operative society, that is, of a number of persons who join together and purchase liquor, is essentially different: the purchase being, in this case, one made for private use by a body of persons instead of by a single person, and being really equivalent to different transactions by the different individuals composing the society. No license can, therefore, be insisted upon in such cases. But, in order to prevent abuse of this exemption, the Government are pleased to direct that every co-operative society be called upon to furnish the Deputy Commissioner with a list of its members so as to facilitate the detection and punishment of abuses, if any.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Excise Commissioner in Mysore.
The Government Advocate.

Exd.—H.A.R.

Sl 8 To, the Ex Commr

No 5488-9 Dt 15.12.96.
Ex 215

observes that Clubs & Societies which have a distinct existence, apart from the individuals composing them, can have no "private use" for liquor & are not entitled to exemption from license fees & directing that Co-operative Societies, purchasing foreign liquor for private use, be exempt from license fees.

Indexed

N. B. Thammanna.

Commissioner of Sales
Madras
13.1.97